JURISDICTION OF EQUITY TO AVOID A MULTIPLICITY OF SUITS WHEN ONE IS ARRAYED AGAINST ONE.— The theory underlying a bill of peace is that it avoids a multiplicity of suits at law and thus either gives the plaintiff a more adequate remedy, or saves the time of the courts. A pure bill of peace presumes that the plaintiff would otherwise have only a legal right. If a plaintiff has a right in equity on any other grounds, his remedy is not, properly speaking, that of a bill of peace, but rather a uniting of equitable suits. Thus, if a plaintiff seeks an injunction to restrain a defendant from committing waste,[1] or to prevent irreparable damage,[2] or on account of the inadequacy of relief at law because of the defendant's insolvency,[3] equity assumes jurisdiction under other appropriate heads.

Bills of peace may be classified under two general heads: first, where one, either as plaintiff or defendant, is arrayed against many;[4] second, where one is arrayed against one. An interesting case of the latter type recently came before the Supreme Court of Illinois in which the plaintiff brought a bill to restrain the defendant from continually trespassing upon his land. The defendant did not dispute the plaintiff's title, but demurred on the ground that the plaintiff had an adequate remedy at law. The court overruled the demurrer and granted an injunction to prevent a multiplicity of suits. *Cragg* v. *Levinson*, 37 Nat. Corp. Rep. 614 (Dec. 15, 1908).

Bills of peace of this class were at first reluctantly granted to relieve a plaintiff in possession of realty who had established his right at law from the burden of continual suits of ejectment. Lord Cowper, in a celebrated case where title to land had been five times tried at law and five uniform verdicts given for the plaintiffs, refused to grant relief, but his decision was overruled by the House of Lords.[5] The equity of the plaintiff arose from the protracted litigation for the possession of the property which the action of ejectment at common law permitted. That action being founded upon a fictitious demise between fictitious parties, a recovery in one action constituted no defense to another similar action or to any number of them, a change of date in the alleged demise being sufficient to support a new action. To entitle the plaintiff to relief in such cases the concurrence of three particulars was essential: he must have been in possession; he must have been disturbed in his possession by repeated actions at law; and he must have established his rights by successive judgments in his favor.[6] Today no fixed number of successful verdicts is required, and if the plaintiff has established his title by one successful suit at law,[7] or if a previous decree in equity has established the rights of the parties in a case properly within the jurisdiction of equity,[8] it will be considered sufficient to maintain the bill. Nor is a verdict always essential; for it has been held that the vexatious institution and abandonment of repeated actions warrant a bill to restrain the continuance of such conduct.[9] Moreover, if the defendant admits title in the plaintiff and is committing repeated trespasses it is submitted that the Illinois decision is correct on principle, and it is supported by the weight of author-

[1] Kerlin *v.* West, 4 N. J. Eq. 449.
[2] Tribune Association *v.* The Sun, 7 Hun 175.
[3] Kerlin *v.* West, *supra.*
[4] For a discussion of the principles involved in this type, see 21 HARV. L. REV. 208.
[5] Lord Bath *v.* Sherwin, 4 Brown, Cases in Parliament, Tomlin's ed. 373.
[6] Holland *v.* Challen, 110 U. S. 15; Craft *v.* Lathrop, 2 Wall. Jr. (U. S.) 103; Leighton *v.* Leighton, 1 P. Wms. 670.
[7] Paterson Co. *v.* Jersey City, 9 N. J. Eq. 434.
[8] Pratt *v.* Kendig, 128 Ill. 293, 298.
[9] Thompson's Appeal, 107 Pa. 559. See Ames, Cas. Eq. Jurisd., Parts I, II, III, 97.

ity.[10] There being no dispute as to the title, the objection to equity's taking immediate jurisdiction is removed. Indeed, even where title to land was in dispute equity might conceivably have decided the rights of the parties without a previous trial at law; but equity from early times has consistently refused to do so, preferring to leave the parties to prove their titles before a jury.

EXTRA-TERRITORIAL EFFECT OF ADOPTION. — Adoption is the creation of the relationship of parent and child between strangers in blood.[1] It is not a common-law right, but comes from the civil law, and has gradually been introduced into the statutes of several states in this country. Following the usual law as to statuses, jurisdiction to create it depends on domicil. A valid decree of adoption can be given by the courts of the state where both parties are domiciled, but not by a state where neither is domiciled, and in this respect it differs from the creation of the marital status. If the parties have separate domicils, that of the child probably has jurisdiction, at least, if the adopting parent does the necessary acts therein,[2] although the argument that, as in divorce, a state in which either party is domiciled can give a valid decree fails to distinguish between the creation of a status and its destruction.[3]

Granting that a valid adoption has been consummated, what is its effect on the succession to property in another state? It has been said that where by the law of the domicil a person is the "heir" and "child" of another, the state with jurisdiction to determine the status having so declared, the former's standing as heir must everywhere be recognized, and that, if the latter dies intestate leaving property in another state, by whose law it goes to the heir, the former is entitled.[4] This assumes that status alone decides succession, overlooking that succession involves also a matter of description.[5] The descent of realty is governed by the *lex rei sitæ*.[6] England does not say that English land shall succeed to whomever is declared heir by foreign law, but that it shall go to the eldest son born in lawful wedlock. A foreigner's natural son, legitimated through subsequent marriage by the law of his domicil, is not, therefore, the heir of English land.[7] Similarly, a foreigner's adopted son is not the heir of land in a state which knows nothing of adoption, not because he is not heir in the state of domicil, but for the reason that he does not fulfill the description of the person to whom the *lex rei sitæ* says land shall descend.

In order, therefore, to determine the rights of a foreigner's adopted child, it is essential to ascertain whether adopted children are heirs in the state of the situs.[5] If statutes of adoption in that state say nothing about inheritance, it may be argued that the status is to be interpreted in the light of

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[10] Blondell *v.* Consolidated Gas Co., 89 Md 732; Boston & Maine R. R. *v.* Sullivan, 177 Mass. 230; Warren Mills *v.* New Orleans Seed Co., 65 Miss. 391; Goodson *v.* Richardson, 9 Ch. App. 221.

[1] Thus differing from legitimation which presupposes a natural relation. 3 Beale, Cas. Confl. L., 526.

[2] Van Matre *v.* Sankey, 148 Ill. 536. *Contra*, Foster *v.* Waterman, 124 Mass. 592.

[3] See 20 HARV. L. REV. 400. *Contra*, Miner, Confl. L., § 101.

[4] Lord Brougham, in Birtwhistle *v.* Vardill, 2 Cl. & F. 571, 582, 584.

[5] Story, Confl. L., 8 ed., 142 (a).

[6] Van Matre *v.* Sankey, *supra*.

[7] Birtwhistle *v.* Vardill, 7 Cl. & F. 895.